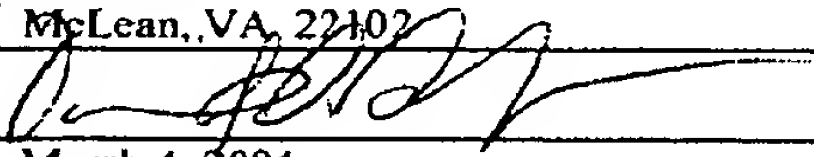
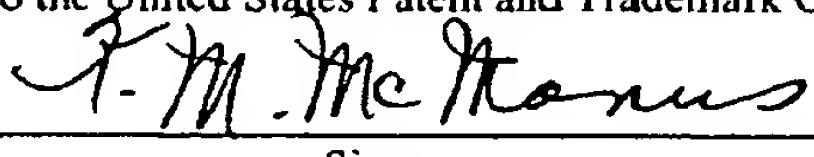


<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/813,353
		Filing Date	March 21, 2001
		First Named Inventor	Manfred PFALZGRAF
		Group Art Unit	3612
		Examiner Name	D. Pedder
Total Number of Pages in This Submission	9	Attorney Docket Number	740123-351

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Request for Reconsideration <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Declaration and Power of Attorney <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition Under 37 CFR § 1.181(a)(1) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Application Data Sheet <input type="checkbox"/> Request for Corrected Filing Receipt with Enclosures <input type="checkbox"/> A self-addressed prepaid postcard for acknowledging receipt <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): 1. Declaration of Bernd Schleicher and Figs. 4-6
Remarks <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees required or credit any overpayments to Deposit Account No. 19-2380 (740123-351) for the above identified docket number.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	David S. Safran, Reg. No. 27,997 Nixon Peabody LLP 8180 Greensboro Drive Suite 800 McLean, VA, 22102
Signature	
Date	March 4, 2004

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]	
I hereby certify that this correspondence is being:	
<input checked="" type="checkbox"/> deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450	
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March 4, 2004 Date	 Signature K.M. McManus Typed or printed name

NVA273349.1

**Attorney's Docket No. 740123-351**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Patent Application of**

**Manfred PFALZGRAF**

**Application No.: 09/813,353**

**Filed: March 21, 2001**

**For: MOTOR VEHICLE ROOF WITH  
TWO COVERS**

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**Art Unit: 3612**

**Examiner: D. Pedder**

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## CERTIFICATE OF MAILING

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March 4, 2004  
K.M. McManus

**PETITION UNDER 37 CFR § 1.181(a)(1)**

**Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

Dear Sir:

In accordance with the provisions of 37 CFR § 1.181(a)(1), applicant hereby petitions the Director to require the Examiner to withdraw his objection to the drawings of the above-captioned patent application.

### Facts

The Examiner has objected to the drawings under 37 CFR § 1.183 for failing to show every feature of the claims in his Office Action of January 4, 2002. With a response filed by Certificate of Mailing on June 4, 2002, applicant filed a new set of drawings and provided reasons why the drawing submitted fulfilled the requirements of 37 CFR § 1.183. In an final Office Action mailed July 11, 2002, the Examiner indicated that the new drawings were not approved and reiterated his objection. With a response filed October 11, 2002 by Certificate of Mailing, two new sheets of

drawings were filed and an Advisory Action issued by the Examiner as a result of which a Request for Continued Examination was filed on November 12, 2002, with a petition to suspend action and on February 12, 2003, an Amendment was filed with reasons why the drawing filed with applicant's October 11, 2002, response should be accepted. On March 6, 2003, another Office Action was issued in which the Examiner maintained his objection to the drawings, and by Certificate of Mailing, on August 6, 2003, an Amendment was filed seeking reconsideration of the Examiner's position relative to the inadequacies of the drawings under 37 CFR § 1.83. On September 11, 2003, the Examiner issued a further Office Action in which he again objected to the drawings under 37 CFR § 1.83 and once again stated that the proposed new drawings were not approved. Having repeatedly sought withdrawal of the Examiner's objection to the drawings, applicant now petitions the Director to reverse the Examiner's decision, or in the alternative to waive § 1.83, and approve the drawings submitted.

Grounds Upon Which Granting of the Petition is Sought

It is applicants' position that the schematic depictions of the swinging mechanisms for raising and lowering the covers added to the Figures 2A-2D and 3A-3C in the Submission of New Drawings of October 12, 2002 (a copy of which is attached) are consistent with the original disclosure and adequately illustrate the claimed subject matter. As pointed out to the Examiner, the specific means to produce the claimed movements is not the invention as those skilled in the art will know numerous techniques for doing so, and by way of example, the Examiner was been presented with U.S. Patent No. 4,911,496 (see Figures 2-5), U.S. Patent No. 4,911,497 (see Figures 9-12, 18-22), as well as French Patent No. 2,730,958 (see Figures 2-4), each of which disclose various specific means of cooperation between lateral guides of a roof and cam surfaces to move a front or rear edge of a roof cover out of the plane of roof and move the cover longitudinally to an open position along the guides. Furthermore, a Declaration of Bernd Schleicher (copy attached, hereafter the "Schleicher Declaration") has been submitted which provides factual evidence that one of ordinary skill would be able to adapt known mechanisms to produce the claimed movements.

The submitted Figures 2C and 2D clearly illustrate (using arrows) the cooperation of the rear roof cover and the lateral guides G set forth in claim 7. That is, Figure 2C illustrates that the rear edge 19 of the rear cover 15 moves at the roof plane as movement along the guide G continues. Thereafter, Figure 2D illustrates that after substantial movement along the guide G, the rear edge 19 of the rear cover 15 must be moved out of the plane of the roof (see arrow 27) to avoid contact with the rear edge 18 of the front cover 14. The specific means for effecting such movement can be via any well known means for moving an edge of a roof cover out of the plane of a roof while also enabling longitudinal movement of the cover, such as shown by with U.S. Patent No. 4,911,497 (see Figures 9-11) or as French Patent No. 2,730,958 (see Figures 2-3) and as indicated in the Schleicher Declaration. This technique of illustrating the functions or means specifically claimed is sanctioned by USPTO practice, see MPEP 608.02(d) - Complete Illustration in Drawings

37 CFR 1.83 Content of drawing.

(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). Emphasis added

Further, the Applicants do not understand Examiner's insistence on the requirement to illustrate specific means for achieving the claimed movement since the black box and line illustrations of means "G" and "S" is consistent with USPTO practice (see above) and is consistent with this Examiner's own determination that such a showing need not be made in many other applications of related technology examined by him. For example, in U.S. Applications 09/803,435 and 09/803,371, each examined by the current Examiner and also assigned to the same assignee as the instant application, which have been issued as U.S. Patent Nos. 6,457,770 (column 3, line 10, to column 4, line 28; Figures 1-2H; claims 1 and 8) and 6,565,149 (column 3, line 10, to column 4, line 20; Figures 2A-2J; claim 1), respectively, the current Examiner correctly determined that each patent, in setting forth in general terms only the numerous upward, downward and lateral movements of the front edge of either or both a front cover and a rear cover, did not require any illustration or discussion of

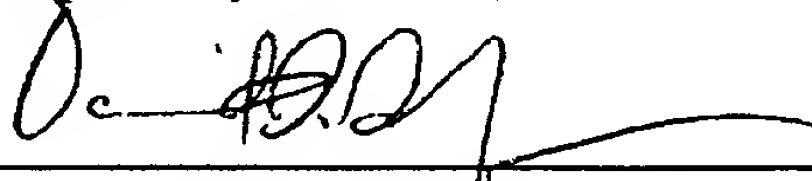
specific means for effecting the upward, downward or longitudinal movement of the claimed features.

The Applicant continues to assert, for the reasons above, that a specific illustration of a means for effecting the claimed movement of the front or rear cover set forth in claims 1-9 is not required or necessary to the understanding of the claimed invention and the illustrations of the claimed movements set forth in the Submission of New Drawings of October 11, 2002 fully comply with the accepted USPTO practice prescribed by 37 C.F.R. 1.83(a).

Conclusion

For the above stated reasons, the Director is requested to grant this petition seeking withdrawal of objection to the drawings under 37 C.F.R. 1.83(a). However, should the drawings not be found to be in full compliance with 37 C.F.R. 1.83(a), in the alternative, the Director is requested to waive § 1.83(a) to the extent necessary for the drawings submitted to be approved.

Respectfully submitted,

  
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